

PUBLIC CHAPTER NO. 218

SENATE BILL NO. 664

By Burchett

Substituted for: House Bill No. 716

By Tindell, McCormick

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 31, relative to the Underground Utility Damage Prevention Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-31-102(4), is amended by inserting after the word "operator" the following language:

or that is not located within one hundred feet (100') of the edge of the pavement of a street or highway

SECTION 2. Tennessee Code Annotated, Section 65-31-104, is amended by deleting the language "or a private easement of an operator," and by substituting instead the language ", a private easement of an operator or within one hundred feet (100') of the edge of the pavement of a street or highway,".

SECTION 3. Tennessee Code Annotated, Section 65-31-104, is further amended by designating the existing language as subsection (a) and adding the following language as a new subsection (b):

(b) A general DIG certificate shall be issued for agricultural land as defined in § 67-5-1004 that lies outside a street, highway, public space or a private easement of an operator but within one hundred feet (100') of the edge of the pavement of a street or highway when no utilities are located within such area. Such general certificate shall be valid until title to the land is transferred or until a utility line is located within such area.

SECTION 4. Tennessee Code Annotated, Section 65-31-106, is amended by adding a new subsection thereto as follows:

(d) Except as provided in § 65-31-109, before beginning any excavation or demolition within one hundred feet (100') of the edge of the pavement of a street or highway when such area which lies outside a street, highway, public space or a private easement of an operator, an excavator shall serve notice of such excavation or demolition at least three (3) working days before the actual date of excavation or demolition as set forth in this section. If after receiving proper notification as required in this section, an operator fails to locate its facilities within three (3)

working days in the manner required by § 65-31-108, the excavator shall be authorized to proceed with the excavation. If an operator fails to locate its facilities within three (3) working days in the manner required by § 65-31-108 after receiving proper notification as required by this section and an underground facility of such operator is damaged by an excavator as a result of the operator's failure to discharge such duty, then such excavator shall not be liable for such damage.

SECTION 5. Tennessee Code Annotated, Section 65-31-104, is further amended by designating the existing language as subsection (a) and adding the following language as a new subsection (b) :

(b) A general DIG certificate shall be issued for agricultural land as defined in § 67-5-1004 that lies outside a street, highway, public space or a private easement of an operator but within one hundred feet (100') of the edge of the pavement of a street or highway when no utilities are located within such area. Such general certificate shall be valid until title to the land is transferred or until a utility line is located within such area.

SECTION 6. Tennessee Code Annotated, Section 65-31-106, is amended by adding a new subsection thereto as follows:

(d) Except as provided in § 65-31-109, before beginning any excavation or demolition within one hundred feet (100') of the edge of the pavement of a street or highway when such area which lies outside a street, highway, public space or a private easement of an operator, an excavator shall serve notice of such excavation or demolition at least three (3) working days before the actual date of excavation or demolition as set forth in this section. If after receiving proper notification as required in this section, an operator fails to locate its facilities within three (3) working days in the manner required by § 65-31-108, the excavator shall be authorized to proceed with the excavation. If an operator fails to locate its facilities within three (3) working days in the manner required by § 65-31-108 after receiving proper notification as required by this section and an underground facility of such operator is damaged by an excavator as a result of the operator's failure to discharge such duty, then such excavator shall not be liable for such damage; provided that if the excavator observes clear evidence of the presence of an unmarked utility in the area of the proposed excavation, the excavator shall exercise reasonable care to avoid damage to the utility which may be caused by such excavation, and the excavator shall be liable for damages arising from its failure to use reasonable care in such circumstances.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 9, 2007



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 24th day of May 2007



PHIL BREDESEN, GOVERNOR